

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Baltimore Division)**

MARK A. SCHAPPELL and
LORI SCHAPPELL,

Individually and on behalf of a class)
of similarly situated,)

Plaintiffs,)

v.)

Civil Action No.)

PNC BANK, N.A.,)

Defendant.)

* * * * *

NOTICE OF REMOVAL

PLEASE TAKE NOTICE that Defendant PNC Bank, National Association ("PNC Bank"), pursuant to 28 U.S.C. §§ 1441, *et seq.*, hereby removes to this Court the action entitled *Mark A. Schappell, et al. v. PNC, N.A.*, Case No. 03-C-12-005741 OC, filed in the Circuit Court of Baltimore County, Maryland (the "State Court Action"). As grounds for removal, PNC Bank states as follows:

Background

1. Plaintiffs filed the State Court Action against PNC Bank on or about May 30, 2012. The State Court Action alleges that PNC Bank and/or its predecessor in interest, National City Mortgage Co., provided financing to other lenders making mortgage loans in Maryland through a process called "table funding." Plaintiffs further allege that borrowers paid closing fees to the lenders whose mortgage loans PNC Bank table funded, and that such charges constitute improper "finder's fees" under the Maryland Finder's Fee Act.

2. The Complaint seeks damages on a class wide basis. Plaintiffs claim that fees charged at closing, including origination fees, document preparation fees, loan discount fees, processing fees, administration fees, underwriting fees, correspondent service fees and tax services fees, were improper finder's fees under the statute.

3. The Complaint alleges that there are "hundreds if not thousands" of class members and millions of dollars of illegal fees charged. *See* Complaint, ¶¶ 5, 31. Plaintiffs allege that they paid \$7,597 in improper finder's fees. *See id.* ¶ 8. Plaintiffs further allege that \$3,000 was the average amount of allegedly improper finder's fees paid by members of the putative class. *See id.* ¶ 5.

4. The Circuit Court issued a summons to PNC Bank on or about June 1, 2012. PNC Bank was served on June 5, 2012.

Federal Diversity Jurisdiction

5. This Court has original jurisdiction over the Action pursuant to 28 U.S.C. § 1332(d)(2), as the matter in controversy is a class action between citizens of different states, has more than 100 alleged class members, and exceeds the sum or value of \$5,000,000, exclusive of interest and costs.

6. Plaintiffs are citizens of the state of Maryland for purposes of diversity jurisdiction. All of the class members are defined to be citizens of Maryland. *See* Complaint ¶ 28.

7. PNC Bank is a national bank chartered under the laws of the United States, with its home office, as set forth in its Articles of Association, located in the State of Delaware. The principal place of business of PNC Bank is the Commonwealth of Pennsylvania.

8. Plaintiffs have alleged an average finder's fee of \$3,000 per loan. Plaintiffs have

further alleged that the class period was the 12 years ending on June 1, 2012. Within the 12 years set forth in the class definition, PNC Bank table funded in excess of 5,000 loans. Thus, based on Plaintiffs' allegations, the amount in controversy exceeds \$5,000,000, exclusive of interest or costs.

9. Venue is proper in this Court pursuant to 28 U.S.C. §§ 100(2) and 1441(a) because the United States District Court for the District of Maryland, Baltimore Division is the federal judicial district and division embracing the state court in which this action was originally filed.

Procedural Compliance

10. Removal of this action is timely. 28 U.S.C. § 1446(b) provides that, "[t]he notice of removal of a civil action or proceeding shall be filed within thirty days after the receipt by the defendant, through service or otherwise, of a copy of the initial pleading setting forth the claim for relief upon which such action or proceeding is based." *See also Murphy Bros., Inc. v. Michetti Pipe Stringing, Inc.*, 526 U.S. 344, 356 (1999) (deadline to remove runs from the date on which the defendant is first served with a copy of the summons and complaint). In this case, PNC Bank was served on June 5, 2012. This Notice of Removal is being filed with the Court on July 3, 2012, *i.e.*, within 30 days after PNC Bank was served with the Complaint.

11. Attached to this Notice of Removal as Exhibit A is a copy of Plaintiff's Initial Pleading and Civil Cover Sheet. Attached as Exhibit B is a copy of the Writ of Summons issued by the Circuit Court. Attached as Exhibit C is a Motion for Certification of Class. The foregoing are the only "process, pleadings or orders" of which PNC Bank is aware in this action to date. *See* 28 U.S.C. § 1446(a).

12. PNC Bank is serving upon Plaintiffs' counsel contemporaneously with this filing a copy of this Notice of Removal.

13. No other defendants have been named in this action.

14. PNC Bank will also file with the Clerk for the state court a Notice of Filing of Notice of Removal, as required by 28 U.S.C. § 1446(d).

15. In removing this action to federal court, PNC Bank expressly reserves, and does not waive, any and all rights and defenses that it has or may have.

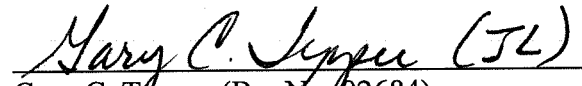
WHEREFORE, Defendant PNC Bank hereby gives notice that the State Court Action is removed to this Court.

Respectfully submitted,

Dated: July 3, 2012

 (JL)

Daniel J. Tobin (Bar No. 10338)
BALLARD SPAHR LLP
4800 Montgomery Lane, 7th Floor
Bethesda, MD 20814-3401
Telephone: (301) 664-6200
Facsimile: (301) 664-6299
tobindj@ballardspahr.com

 (JL)

Gary C. Tepper (Bar No. 02684)
BALLARD SPAHR LLP
1909 K Street, NW, 12th Floor
Washington, DC 20006-1157
Telephone: (202) 661-2202
Facsimile: (202) 661-2299
tepperg@ballardspahr.com

Attorneys for PNC Bank, National Association

CERTIFICATE OF SERVICE

This is to certify that on this 3rd day of July, 2012, I caused a true and correct copy of the foregoing Notice of Removal to be served via first-class mail, postage prepaid, upon the following:

Richard S. Gordon
Martin E. Wolf
Benjamin H. Carney
GORDON 7 WOLF, CHARTERED
102 West Pennsylvania Ave., Suite 402
Baltimore, MD 21204

Counsel for Plaintiff


Daniel J. Tobin

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